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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,960	02/22/2008	Rex Allan Mason	JAMES117.002APC	5112
20995 7590 03/10/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER MCKENZIE, THOMAS B	
			ART UNIT 1797	PAPER NUMBER
			NOTIFICATION DATE 03/10/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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2ros@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,960	<b>Applicant(s)</b> MASON, REX ALLAN	
	<b>Examiner</b> THOMAS BENNETT MCKENZIE	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/11/2006</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. **Claim 1** is objected to because of the following informalities: "lest" in line 3 of the claim is misspelled. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, USP 2,041,059, hereafter referred to as Thomas.

4. Regarding **claim 1** Thomas substantially teaches a low pressure source (column 3, lines 20-25), wherein the low-pressure source imparts a low pressure to at least part of the internal volume of the fluid treatment system (column 3, line 20-25),
5. at least one fluid inlet (figure 1, part 2),

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6. a primary chamber (1, part 3) wherein the primary chamber contains at least one baffle (figure 1, part 4) adapted to control the flowrate of fluid out of the primary chamber, and

7. a secondary chamber (space between figure 1, parts 5 and 6), wherein the secondary chamber defines at least one inclined surface (figure 1, part 16),

8. at least one fluid outlet (figure 1, part 9a),

9. wherein the fluid forms a thin film laminar flow on at least part of the surface of the secondary chamber (column 3, lines 1-5).

10. Note that Thomas does not explicitly teach the fluid entering from the fluid inlet is pooled between the primary chamber wall and the baffle before flowing out of the primary chamber past the baffle. However, Thomas does teach that the first chamber can be cup-shaped (column 2, lines 50-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for this configuration to allow for the pooling of milk.

11. Regarding **claim 2**, Thomas substantially teaches the limitations of **claim 1**, as described above. Note that Thomas does not explicitly teach the fluid treatment system is configured such that the thin film of fluid present in the secondary chamber creates a large meniscus to the low pressure source. However, Thomas does teach that gas removal is assisted by a vacuum source (column 3, lines 20-25). It would have been obvious to one of ordinary skill in the art at the time of the invention for the vacuum source to create a large meniscus.

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12. Regarding **claim 3**, Thomas substantially teaches the secondary chamber has a single inclined surface (figure 1, part 6).

13. Regarding **claim 4**, Thomas substantially teaches the inner surface of the secondary chamber is inclined (figure 1, part 16).

14. Regarding **claim 5**, Thomas substantially teaches the secondary chamber inner surface is textured to decrease-velocity of a fluid flowing over the surface (column 1, lines 40-50).

15. Regarding **claim 6**, Thomas substantially teaches the limitations of **claim 1**, as described above. Note that Thomas does not explicitly teach that the primary chamber is configured to allow fluid to pool. However Thomas does teach that the primary chamber can be cup-shaped (column 2, lines 50-55). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention for the primary chamber to be configured to allow fluid to pool.

16. Regarding **claim 7**, Thomas substantially teaches there is a gap along at least part of the base of the baffle (figure 1, part 4).

17. Regarding **claim 8**, Thomas substantially teaches the fluid treatment system has a fluid outlet positioned substantially towards the base of the system (figure 1, part 9a).

18. Regarding **claim 9**, Thomas substantially teaches the limitations on **claim 7**, as described above. Note that Thomas does not explicitly teach the gap along at least part of the baffle is less than 5 mm wide. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the gap in the baffle described in Thomas for the benefit of finding the optimal working range.

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"[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." See *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). The discovery of an optimum value of a known result effective variable, without producing any new or unexpected results, is within the ambit of a person of ordinary skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980) (see MPEP § 2144.05, II.).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS BENNETT MCKENZIE whose telephone number is (571) 270-5327. The examiner can normally be reached on Monday-Thursday 7:30AM-5:00PM Alt. Friday 7:30AM-4:00PM EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DUANE SMITH can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Duane Smith/

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Supervisory Patent Examiner, Art  
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TBM